

IN THE INCOME-TAX APPELLATE TRIBUNAL "F" BENCH,
MUMBAI

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No.4259/MUM/2025
(A.Y. 2011-12)

Smt. Urmila Dhelia D-67/651 MIG Colony, Kala Nagar, Bandra (East), Mumbai - 400 051, Maharashtra	v/s. बनाम	Income Tax Officer, Ward - 23(3)(1), Room No. 701, Piramal Chambers, Dr. S S Rao Road, Parel, Mumbai-400 012, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAEPD1367R		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Harsh Kapadia, AR
Respondent by :	Ms. Kavitha Kaushik, (Sr. DR)

Date of Hearing	06.11.2025
Date of Pronouncement	06.01.2026

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal emanating from the appellate order dated 04.06.2025 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] pertaining to assessment order passed u/s. 143(3) r.w.s. 147 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 17.12.2018 for the Assessment Year [A.Y.] 2011-12.



2. The grounds of appeal are as under:

1. a) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the action taken by the AO in re-opening the assessment u/s.147 of the Income Tax Act, 1961 inspite of the fact the prescribed conditions are not satisfied.*
- b) *The Ld. CIT(A) failed to appreciate that initiation of re-opening of the assessment proceedings and completion of the assessment u/s.143(3) r.w.s. 147 is without jurisdiction and bad in law.*
2. a) *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the addition of Rs.62,05,000/-made by the AO to the income of the Appellant under the head "Income from other sources" in respect of monetary consideration i.e. Corpus Money entitled to receive from the Developers in pursuance to re-development agreement subject to certain conditions to be fulfilled in future treating the same to be revenue receipt rejecting the claim of the Appellant in respect of such money being capital receipt.*
- b) *The Ld. AO failed to appreciate that:*
 - (i) *the Corpus Money received from the developers towards hardship caused to the Appellant on re-development would be in the nature of capital receipt and the same is not includible in income as per section 2(24)(vi);*
 - (ii) *the Appellant received 6,20,500/- being 10% of the Corpus Money during the previous year as advance which was refundable if certain conditions are not fulfilled, on giving consent letter by the member and as such the money received in advance was not crystallized and as such the same cannot be brought to tax during the previous year;*
 - (iii) *the rest of the money was received in the subsequent years i.e. F.Ys.2013-14, 2014-15 and 2015-16 at different point of time on completion of chain of transactions and therefore the subsequent event cannot be considered in the previous year under consideration; and*
 - (iv) *no matter how wide be the scope of income u/s.2(24) it cannot obliterate the distinction between capital receipt and revenue receipt.*



- c) *In reaching to the conclusion and confirming the addition made by the AO the Ld. CIT(A) omitted to consider relevant factors, considerations, principles and evidences while he was overwhelmed, influenced and prejudiced by irrelevant considerations and factors.*
3. *The Ld. CIT(A) erred in holding that levy of interest u/s.234A and 234B of the Income Tax Act, 1961 is mandatory. The Appellant denies her liability for such interest.*
4. *The Ld. CIT(A) erred in holding that the ground raised disputing initiation of penalty proceedings u/s.271(1)(c) is premature. The Appellant denies her liability for such penalty.*

3. Facts of the case are that the assessee filed return of income on 29.03.2012 declaring total income of 22,28,780/- which was accepted u/s 143(1) of the Act. She was a member of the MIG Co-operative Housing Society (Bandra East), Group IV Ltd holding D-type flat. The Society, along with its 168 members, entered into a tripartite development agreement dated 17.09.2010 with M/s. Keystone Realtors Pvt. Ltd. and Rustomjee Construction Pvt. Ltd. for redevelopment of the property, wherein each member, in exchange for surrendering their old flat, was entitled to receive a new flat along with an interest in the additional FSI allotted by MHADA. The property and the additional FSI were in the name of the Society. Further, as per the agreed terms, each member was also entitled to receive certain monetary compensation from the Developers. The total amount entitled was dependent on the size of the old flat which each member was giving up for redevelopment.



This amount of compensation /corpus money received by each member was towards the hardship caused on redevelopment. As per the redevelopment agreement, the compensation amount was to be handed over by the Developer to the Society for and on behalf of the members and the Society had agreed to hand over to the members the respective pay orders, only on such individual members signing and handing over to the Society the consent letter. The amount of hardship compensation was also to be paid in instalments. The assessee was entitled to receive an aggregate sum of Rs. 62,05,000/- from the Developers. In the impugned AY 2011-12, she received a sum of Rs. 6,20,500/- who treated this hardship compensation as a capital receipt, not includible in income as per section 2(24) of the Act. As the hardship compensation was not considered as income in the return of income by treating the same as capital receipts, the assessment was reopened by a notice u/s 148 of the Act. The reassessment was completed by the AO by him passing the order u/s 143(3) r.w.s. 147, wherein he treated the hardship compensation of Rs. 62,05,000/- as Income from other source observing that the activities carried out by the Society were in the nature of commercial activities and the monetary consideration arising out of it and directly distributed to its members was nothing but



dividend in the hands of the shareholders and, therefore, chargeable to income tax in the hands of the members.

4. Aggrieved, the assessee filed further appeal before the Id.CIT(A) stating that she received corpus money or compensation of Rs. 62,05,000/- from the Developers in pursuance to redevelopment agreement dated 17.09.2010, subject to certain conditions to be fulfilled, as under:-

Date	Corpus	Percentage	Condition/Occasion
Sept, 2010	6,20,500/-	10%	On giving consent letter of member
Oct, 2013	6,20,500/-	10%	On giving consent letter of society
Mar, 2015	34,12,750/-	55%	On vacating the flat by the member
May, 2015	15,51,250/-	25%	On possession of the property by the society to the Developer

4.1 It was claimed by the assessee that she received refundable advance of Rs. 6,20,500/- during the previous year and the receipt was not crystallized during the previous year. The amount received corpus money from the Developers towards hardship caused to her on redevelopment would be in the nature of capital receipt and the same is not includible in income as per section 2(24)(vi). The Id.CIT(A) however, rejected the contentions of the assessee stating that it was evident that she had engaged the builders to develop the properties and the amount received was for temporary settlement till the time the builder would



exploit the land commercially for the benefit of the individual residents and the society. The receipt in the hands of the assessee was in the nature of a quid pro quo benefit which was taxable under general provisions of section 56(1) of the Act. Her reliance on the Hon'ble ITAT decision in in the case of Jitendra Kumar Soneja v/s. ITO 72 taxmann.com 318 (Mum) and Jethalal D. Mehta v/s. DCIT 2 SOT 422 (Mum), which in turn has relied on Hon'ble ITAT decision in Raj Ratan Society Case were stated to be not relevant to the facts of the present case.

5. Before us, the ld.AR has contested the action of the lower authorities claiming that the issue of taxability of such a monetary compensation is no longer *res integra* and decided in favour of assesees by several judicial precedents which have also accepted by the Revenue .A legal compilation containing the decisions favouring the assessee was also filed during the course of the hearing before us wherein also such hardship compensation has been treated as a capital receipts, not taxable in the hands of the society members. The assessee in particular referred to a decision of this Hon'ble Tribunal in the case of Narayan Devarajan Iyengar vs ITO [152 taxmann.com 188] (Mum),wherein under identical facts the Hon'ble ITAT has held that the issue in the society member's favour. In that case, the assessee belonged to the very



same society viz., MIG Co-operative Housing Society Ltd.-IV, of which the assessee was is a member. The same monetary compensation received by that assessee under the same tripartite redevelopment agreement dated 17.09.2010, treated as Income from Other sources by the AO, had been held by ITAT to be in the nature of a capital receipt which deleted the addition.

5.1 We take up **ground no.2** for adjudication first. Before us, apart from reiterating the same contentions as made before the lower authorities, it is contended by the ld.AR that that under similar circumstances, the Revenue too has accepted this Housing Society where certain members of that society had received similar compensation towards hardship from position. Those assessees also treated such a compensation as capital receipt and did not offer to tax in their respective returns of income. Their assessment was also reopened under section 148 of the Act. Such reopening notices and the order disposing the assessee's objections were challenged by some of the members in a writ petition under Article 226 of the Constitution before the Hon'ble Bombay High Court in the case of Pramila Roongta & Others vs 170 (W.P. No. 2762/2018). The Hon'ble High Court vide its order dated 16.2.2024 set aside the order rejecting the Petitioner's objections and remanded the matter back to the Assessing Officer for passing fresh



order on the objections filed by the society members particular in light of the decisions of the Hon'ble Tribunal in the case of Smt. Delia Raj Mansukhani v. ITO, Mumbai and Shri Lawrence Rebello v. ITO, Indore, wherein it was unanimously held that the amount which had escaped assessment as alleged in the reasons to believe, was not taxable. It is further submitted that in compliance thereto, the AO in the case of two assessee's viz. Pramila Roongta and Kamala R. Vemban, vide orders dated 29.4.2024, disposed of the objections of those assessees. He accepted the contentions of the assessee and dropped the proposed addition/disallowance by following the aforesaid decisions of Hon'ble Tribunal to the effect "that the receipt of the hardship compensation was held as capital receipt and not taxable".

5.2 Reliance has also been placed on the decision in Abhay Shaligram Patil vs ITO (ITA No. 4760/Mum/2023) dated 30.05.2024 wherein the Hon'ble co-ordinate bench allowed the assessee's contention that the compensation received from the developer was a capital receipt and not taxable as income. This conclusion was drawn after examining the entire factual position stated above, namely the Revenue acceptance of the decision in Delia Raj Mansukhani and Lawerance Rebello. Reliance is also placed on several other decisions Sarfaraz S.Furniturewalla v/s. Afshan Sharfali Ashok Kumar 166



taxmann.com 425 (Bom), Vinod Murlidhar Chawal vs ITO (ITA No.3206/Mum/2022) (Mum-Trib), Monica Permanand Mirchandani vs ITO,(ITA No. 1081/1082/1083/Mum/2024) (Mumbai-Trib) etc.

6. The ld. DR during the course of the hearing placed reliance on the orders of the authorities below. She did not controvert the legal position emerging from the cited decisions above.

7. We have carefully considered the facts of the case and have also perused the case laws relied upon by the assessee. We find that similar issue has been dealt with in a plethora of cases by the coordinate bench of ITAT ,Mumbai deciding the issue in favour of the assessee. Relevant parts of the decision in one of such cases of **Abhay Shaligram Patil, Mumbai vs Income Tax Officer - 23(1)(1), Mumbai dated 26 July, 2024** in ITA NO.995/Mum/2024 are extracted as below:

“3. The facts of the case, in brief, are that the assessee is a member of the middle income group co-operative housing society. During the assessment year under consideration the information was received by the Ld. AO that the assessee, being a member of the MIG co-operative housing society, has received compensation of Rs.18,48,739/- from M/s. D. B. MIG Realtors and Builders Private Limited. The case was, therefore, reopened u/s. 147 of the Income Tax Act and notice u/s. 148 was issued to the assessee to file the return of income in response to that notice. Accordingly, the assessee filed its return of income on 29/04/2019 declaring total income at Rs.2,31,120/- Statutory notices u/s. 143(2) and 142(1) of the Act alongwith questionnaire were issued from time to time and served on the assessee. The reasons recorded by the AO for reopening of assessment are given as under:-

"In this case, information is received from the office of ITO 23(2)(3), Mumbai that the assessee has received Rs.18,48,739/- from M/s. DB MIG Realtors and Builders, Pvt. Ltd., during F.Y. 2011-12 being member of housing society as owner of flat no. 88/60.

In view of the above, it leads to the conclusion that the assessee has not fully declared income chargeable to tax for F.Y. 2011-12 relevant related to receipts from the developer."



4. During the assessment proceedings, when the assessee was asked to explain the nature of the payment received, the assessee submitted that this is the hardship compensation received by the assessee on account of hardship caused due to the redevelopment which is a capital receipt and hence not liable to tax. The Ld. AO then asked the assessee to showcause as to why this amount received from builder should not be assessed as income from other sources within a meaning of [section 56](#) of the Income Tax Act. In response to that the assessee submitted asunder: -

"As regards the fund of Rs.18,48,739/- received from the Builder should not be assessed as "Income from other sources" within the meaning of [section 56](#) of Income Tax Act, 1961 as we are furnishing the following facts and circumstances of our case, vis-à-vis the provisions of the [Income Tax Act, 1961](#) supported by the relevant judicial pronouncements:

The assessee owns a residential premises in a registered Co-operative Housing Society in Bandra (East), Mumbai. The society entered into a Development Agreement & subsequently a Deed of Modification (DOM) on behalf of all members and Developers for undertaking the said Re- development, accordingly the assessee handed over the physical possession of his residential premises.

As per the terms and conditions of the Development Agreement, the assessee received a compensation for undergoing hardship as a result of the temporary displacement for enabling the Re-development work which in common parlance is known & understood as "Hardship Compensation. This hardship compensation is received by the assessee on account of hardship caused due to Re-development, which is a "Capital RECEIPT, "& HENCE "not liable to tax".

FACTS & CIRCUMSTANCES OF THE CASE:

WITH REGARD TO JUDICIAL PRONOUNCEMENTS BASED ON PROVISIONS OF THE INCOME TAX ACT, 1961 COMPENSATION FOR REDEVELOPMENT NOT TAXABLE Compensation received by a cooperative housing society flat owner from a redeveloper cannot be taxed in his hands, according to a recent order of the Income Tax Appellate Tribunal's (ITAT) Mumbai Bench. It noted that this compensation was towards the hardship which the flat owner would face owing to the redevelopment. It held that such compensation Abhay Shaligram Patil should be in the nature of a "Capital Receipt". Which "is outside the scope of income that can be chargeable to tax." In other words, such compensation cannot be subject to income tax.

5. The contention of the assessee was considered by the AO however, he didn't accept the same by holding as under:

"6. The assessee is a member of the Middle Income Group Co-operative Housing Society. The Society, who was the owner of property, entered into an agreement for development of the property and to achieve this, the society and its members awarded a contract to M/s. DB MIG Realtors and Builders Pvt. Ltd. vide Agreement dated 31- 10-2010. As per the terms of the said agreement, the developer shall develop the property in such a manner that each member of the Society shall receive a new flat in exchange of surrender of old flat depending upon the size of the old flat along with interest in the additional FSI allotted by MHADA. It is further to be noted that the property and the additional FSI is in the name of the Society. Further, as per the said agreement all the expenses, costs and charges for the proposed project of re-



development of the said property including for purchase of additional: FSI from MHADA etc. shall be borne by the Developers alone and the society and/or members shall not be liable to pay or, contribute any amount towards the same. The Developer, as per the agreement have paid to the society being lawful owner of the property, and the members an aggregate monetary consideration of Rs.149,89,52,000/-. The said amount of Rs.149.89/- crores has been distributed among the members of the society being shareholders, depending upon the size of their old flat.

6.1. The assessee is one of the members of the said society by virtue of being shareholder. Thus, during the year under consideration i.e. F.Y.2011-12, the assessee has received an amount of Rs.18,48,739/- being consideration for surrender of his old flat.

6.2. It is pertinent to mention here that the developer has issued cheques in the names of the individual members which were handed over to the society and in turn, the society diverted the same at source to the members/shareholders. Thus the said amount of Rs.149.89 crores was never routed through the books of accounts of the society though these cheques were in the custody of the society before handing over to the individual members being shareholders. It is observed that the receipt of Rs.149.89 crores by the society is not generated out of a regular activity of the society and there is no concept of mutuality as the same is received, from the third party i.e. the Developer. Hence, the activity of entering into an agreement for re-development of the property and receipt of consideration of Rs.149,89,52,000/- by the society and diverting of the same at source, thus, a profit in the hands of the society which has been distributed among the individual members being shareholders and therefore is in the nature of dividends in the hands of the members/shareholders of the Society and therefore of revenue character. This is in conformity with the guidelines issued by the Hon'ble Karnataka High Court in the case of M/s. Bangalore Club v/s. CIT, 156 Taxman 323 which has been affirmed by the Hon'ble Supreme Court in Civil Appeal No. 124 of 2007 dated 14.01.2013. In this case, the Hon'ble Karnataka High Court held as under:

"On the facts of this case and in the light of the legal principles it is clear to us that what has been done by the club is nothing but what could have been done by a customer of a bank. The principle of 'no man can trade with himself' is not available in respect of a nationalized bank holding a fixed deposit on behalf of its customer. The relationship is one of a banker and a customer"

6.3. In further appeal, the question before the Hon'ble Supreme Court for determination was that whether or not the interest earned by the assessee on the surplus funds invested in fixed deposits with the corporate member bank is exempt from levy of income tax, based on the doctrine of mutuality. The Hon'ble Supreme Court observed that the assessee is an AOP. The concerned banks are all corporate members of the club. It is further stated that the assessee is already availing the benefit of the doctrine of mutuality in respect of the surplus amount received as contributions or price for some of the facilities availed by its members, before it is deposited with the bank. This surplus amount was not treated as income; since it was the residue of the collections left behind with the club. Accordingly, the Apex Court stated that "a façade of a club cannot be constructed over commercial transactions to



avoid liability to tax. Such setups cannot be permitted to claim double benefit of mutuality." The Hon'ble Supreme Court held that unlike the aforesaid surplus amount itself, which is exempt from tax under the doctrine of mutuality, the amount of interest earned by the assessee from the afore noted four banks will not fall within the ambit of mutuality principle and will therefore, be exigible to income tax in the hands.

6.4. Hence, the activity of entering into an agreement for re- development of the property and receipt of consideration of Rs,149,89,52,000/- by the society and diverting of the same at source to the individual members is purely a commercial activity. It is, thus, a profit in the hands of the society which has been distributed among the individual members being shareholders and therefore, is in the nature of dividends in the hands of the members/shareholders of the society and therefore of revenue character. Thus, the ratio of the decision of the Hon'ble High Court (supra) and as affirmed by the Hon'ble Supreme Court is found to be applicable to the facts of the present case so far as the principle of mutuality is concerned.

6.5. As stated above, the activity carried out by the society is in the nature of commercial activity, the monetary consideration, arising out of it is directly distributed to its members being shareholders is akin to the dividend and is therefore eligible to income-tax in the hands of the assessee under the head Income from Other Sources'.

6.6. It may be mentioned here that the MIG Housing Society was constructed not on freehold land. The Society under consideration was lawful owner of only.....

6. Aggrieved by the order of the Ld. AO, the assessee filed appeal before the Ld. CIT(A) who dismissed the appeal of the assessee on the ground that the AO has clearly brought on record, in detail, alongwith judicial pronouncement that the appellant had wrongly claimed the compensation received upon surrendering his old residential flat is a capital asset. Since, no transfer of property took place and appellant had received compensation in lieu of surrendering the flat to the developer for redevelopment. Therefore, the Ld. AO has rightly added this amount of Rs.18,48,739/- under the head income from other sources u/s. 56 of the Act.

7. Aggrieved by the order of the Ld.CIT(A), the present appeal has been filed. During the appellate proceedings before us, the appellant submitted that in the case of the appellant himself the Coordinate Bench of ITAT, Mumbai in as under: -

3. "Being aggrieved, the assessee is in appeal before us. Learned counsel Shri Yogesh Thar along with Shri Deep Chauhan at the outset drew our attention to page No. 140 of the paper book and submitted that in an identical situation, in the case of similarly placed member of the society namely Pramila Roongta and other members of the society who also received similar compensation/receipt as involved in the instant case, the objections dated 30.7.2018 were filed against the initiation of the proceedings under [section 147/148](#) of the Act, which were disposed of by the Assessing Officer by rejecting the same.



4. Against the dismissal of the Objections, Pramila Roongta and others have filed writ petition bearing No. 2762/2018 with Hon'ble Bombay High Court. The Hon'ble Bombay High Court vide its order dated 16.2.2024 quashed the order rejecting the objections by the Assessing Officer and remanded the matter to the Assessing Officer for passing fresh order on the objections filed by the allottees/residents of the society in view of the judgements passed by Hon'ble Coordinate Benches of the Tribunal at Mumbai and Indore respectively in the case of [Smt. Delia Raj Mansul Vs. ITO-35\(10\)\(3\), Mumbai and Shri Lawrence Rebello Vs. ITO-1\(3\), Indore](#), wherein it was held that the amount which has escaped assessment as alleged in the reasons to believe, is not taxable.

5. In compliance to the directions of Hon'ble High Court, the Assessing Officer i.e. ITO-23, Mumbai vide order dated 29.4.2024 disposed of the objections and accepted the contentions of the assessee raised therein and dropped the proposed addition/disallowance by following the decisions of Hon'ble Coordinate Benches of the Tribunal to the effect "that the receipt of the hardship compensation is held as capital receipt and not taxable". The Assessing Officer in Pramila Roongta's case also observed that though the aforesaid decision of the Tribunal has not accepted by the Department but further appeal under [section 260A](#) of the Act has also not been filed, as tax effect was below the monetary limit. The Assessing Officer in effect ultimately accepted the claim of the then assessee, qua receipt/compensation identical to the compensation/receipt as involved in the instant case, as capital receipt and not taxable.

6. Learned DR did not refute the aforesaid claim/submission made by the Advocate of the assessee. Hence, considering the peculiar facts and circumstances, as in identical situation and/or circumstances and/or issue as involved in the instant case, the revenue department has accepted the claim of the other members of the society and consequently made no addition qua receipt/compensation and the treated the same as capital receipt not taxable, therefore we are inclined to delete the addition under consideration. Consequently, the addition is deleted.

7. In the result, the appeal filed by the assessee stands allowed."

8. The CIT D.R. relied on the order of the Ld. AO and the Ld. CIT (A). We have considered the decision of the Coordinate Bench in the case of the appellant itself for the assessment year 2011-12, wherein the Coordinate Bench, by following the case of [Shri Lawrence Rebello Vs. ITO-1\(3\)](#) in made by the AO. Thus, respectively following the order of the Coordinate Bench, we also delete the addition made by the AO and allow the appeal of the assessee."

7.1 In another case of **Smt Veena Vijay Murkibhavi, Mumbai**

in **ITA No.4085/Mum/2025**, it was likewise held as under:

"6. We have carefully perused the orders of the authorities below and the orders of the Co-ordinate Benches (supra). We find force in the contention of the ld. Counsel for the assessee. The Co-ordinate Bench in the case of Mrs. Pushpa R. Chawla (ITA No. 2864/Mum/2022), following the decision of another Co-ordinate Bench held as under:-



"We observe that Coordinate Bench has considered the similar issue and adjudicated the same in the case of **Smt Delilah Raj Mansukhani v. ITO in ITA. No. 3526/Mum/2017 dated 29.01.2021** and observed as under: -

"5. After hearing the rival submissions and perusing the material on record, we find that compensation received by the assessee towards displacement in terms of Development Agreement is not a revenue receipt and constitute capital receipt as the property has gone into redevelopment. In such scenario, the compensation is normally paid by the builder on account of hardship faced by owner of the flat due to displacement of the occupants of the flat. The said payment is in the nature of hardship allowance / rehabilitation allowance and is not liable to tax. The case of the assessee is squarely supported by the decision of the Co-ordinate Bench in the case of Shri Devshi Lakhamshi Dedhia vs. ACIT in ITA No.5350/Mum/2012 wherein similar issue has been decided in favour of the assessee, the relevant operative portion is reproduced hereunder:-

15. We have considered the rivals submissions and perused the materials on records. We note that the assessee received compensation of Rs. 19,50,873/- from the developer when the building in which the assessee owned flat went for re-development as per the agreement between the developers and flat owners dated 28.03.2008. The said compensation was paid towards hardship Rs, 13,45,278/-; rehabilitation Rs, 5,90,625/- and for shifting Rs. 15,000/-. We also note that the assessee paid Rs. 18,63,000/- to Joys Developers for acquiring additional area of 138 Sq Ft. It was also noted that the assessee shifted to his own house when the building went for re-development. Now the question before is whether the compensation upon re-development of property towards hardship, rehabilitation and shifting received by the assessee is taxable if the potential TDR/FSI is available to the land owner or society which owns the (and depending upon the terms of the de-development agreement without transferring the land. In the present case the assessee who was flat owner in the building was member of the society, As per the agreement each member of the society including the assessee was to be given a flat in lieu of the old one and the each member including the assessee was given compensation. We also note that In the decisions in ITA No 72/Mum/2012 assessment year 2008-09 Bench E and ITA No 5271/Mum/2012 assessment year 2008-09 Bench "D" the Tribunal held that the amounts received as compensation for hardship , rehabilitation and for shifting are not liable to tax We, therefore , respectfully , the above decisions are of the considered view that the amounts received by the assessee as hardship compensation, rehabilitation compensation and for shifting are not liable to tax and the order passed by the first appellate authority cannot be sustained. Thus the order of CIT(A) is reversed and ground is allowed in favour of the assessee.

16. In the result, appeal of the assessee is partly allowed, as above."

8. We, therefore, respectfully following the above decisions, are of the considered view that the amount received by the assessee as hardship compensation, being capital receipt is not liable to tax and the order passed by the first appellate authority cannot be sustained.



दिनांक /Date 06.01.2026
Lubhna Shaikh / Steno

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

